

MONTANA LEGISLATIVE HISTORY

Chapter 579 1999

Bill H 127 S _____ Original bill & history ✓c

H. Committee on Judiciary

Hearing Date(s) 1-18 ✓c

_____ c

Appropriations

3-11 ✓c

Date Out 3-15 ✓c

S. Committee on Finance & Claims

Hearing Date(s) 4-6 ✓c

4-9 ✓c

_____ c

_____ c

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendant information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

2/02	Transmitted to Senate		
3/03	Referred to Public Health, Welfare and Safety		
3/03	Hearing		
3/13	Committee Executive Action--Bill Concurred as Amended	8	0
3/13	Committee Report--Bill Concurred as Amended		
3/16	2nd Reading Concurred	49	0
3/17	3rd Reading Concurred	49	0
	Returned to House with Amendments		
4/10	2nd Reading Senate Amendments Concurred	96	0
4/12	3rd Reading Passed as Amended by Senate	95	3
4/12	Sent to Enrolling		
4/14	Returned from Enrolling		
4/14	Signed by Speaker		
4/14	Signed by President		
4/15	Transmitted to Governor		
4/19	Signed by Governor		
4/20	Chapter Number Assigned		
	Chapter Number 335		
	Effective Date: 4/19/1999 - Sections 4 and 9		
	Effective Date: 7/01/1999 - Sections 1-3, and 5-8		
HB 127	Introduced by R. Johnson	LC0232 Drafter: MacMaster	
	Generally Revise Child Support Laws to Improve Services:...		
	By Request of Department of Public Health and Human Services		
12/21	Introduced		
1/04	1st Reading		
1/04	Referred to Judiciary		
1/18	Hearing		
2/11	Tabled in Committee		
2/18	Taken from Table in Committee		
2/18	Committee Executive Action--Bill Passed as Amended	15	5
2/18	Committee Report--Bill Passed as Amended		
2/19	Fiscal Note Requested		
2/19	Fiscal Note Received		
2/20	Rereferred to Appropriations		
2/23	Fiscal Note Signed		
3/11	Hearing		
3/15	Committee Executive Action--Bill Passed as Amended	10	8
3/16	Committee Report--Bill Passed as Amended		
3/19	Revised Fiscal Note Requested		
3/19	Revised Fiscal Note Received		
3/20	Revised Fiscal Note Signed		
3/23	2nd Reading Passed as Amended	91	9
3/24	Revised Fiscal Note Requested		
3/24	Revised Fiscal Note Received		
3/24	Revised Fiscal Note Signed		
3/24	Revised Fiscal Note Printed		
3/25	3rd Reading Passed	88	12
	Transmitted to Senate		
3/26	Referred to Finance and Claims		
3/27	Revised Fiscal Note Printed		
4/06	Hearing		
4/09	Committee Executive Action--Bill Concurred as Amended	15	3

4/09	Committee Report--Bill Concurred as Amended		
4/12	2nd Reading Concurred	49	0
4/13	3rd Reading Concurred	50	0
	Returned to House with Amendments		
4/15	2nd Reading Senate Amendments Not Concurred	76	21
4/16	Conference Committee Appointed		
4/19	Hearing		
4/19	Conference Committee Report Received		
4/20	2nd Reading Conference Committee Report Adopt Motion		
	Failed	48	50
4/20	Conference Committee Dissolved		
	Senate		
4/16	Conference Committee Appointed		
4/19	Conference Committee Report Received		
4/19	2nd Reading Conference Committee Report Adopted	50	0
	House		
4/20	Conference Committee Appointed		
4/21	Conference Committee Report No. 2 Received		
4/21	2nd Reading Conference Committee Report No. 2 Adopted	72	28
4/21	3rd Reading Conference Committee Report No. 2 Adopted	74	25
	Senate		
4/21	Conference Committee Report No. 2 Received		
4/21	2nd Reading Conference Committee Report No. 2 Adopted	50	0
4/21	3rd Reading Conference Committee Report No. 2 Adopted	49	0
4/21	Sent to Enrolling		
4/28	Returned from Enrolling		
4/29	Signed by Speaker		
4/29	Signed by President		
4/30	Transmitted to Governor		
5/10	Signed by Governor		
5/10	Chapter Number Assigned		
	Chapter Number 579		
	Effective Date: 5/10/1999 - Sections 3, 8-11 and 18		
	Effective Date: 10/01/1999 - Sections 1, 2, 4-7 and 12-17		
HB 128	Introduced by Gillan, et al.	LC0382 Drafter: Higgins	
	Generally Revise the Taxation of Telecommunications Services Providers:...		
	By Request of Revenue Oversight Committee		
12/21	Introduced		
1/04	1st Reading		
1/04	Referred to Taxation		
1/04	Fiscal Note Requested		
1/30	Fiscal Note Received		
2/03	Fiscal Note Signed		
2/03	Fiscal Note Printed		
2/04	Hearing		
2/09	Committee Executive Action--Bill Passed as Amended	19	1
2/10	Committee Report--Bill Passed as Amended		
3/10	2nd Reading Passed as Amended	62	36
3/12	3rd Reading Passed	69	29

HOUSE BILL NO. 127

INTRODUCED BY JOHNSON R

BY REQUEST OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING CHILD SUPPORT LAWS TO IMPROVE SERVICES; ELIMINATING OBSOLETE PROVISIONS; CONFORMING THE PROVISION FOR JURISDICTION OVER A NONRESIDENT TO FEDERAL FULL FAITH AND CREDIT REQUIREMENTS; MAKING THE DEFINITIONS OF "SUPPORT ORDER" CONSISTENT WITH EACH OTHER; CONFORMING WARRANT FOR DISTRAINT PROVISIONS WITH A MONTANA SUPREME COURT DECISION; PROVIDING FOR REIMBURSEMENT OF HANDLING FEES TO THE OBLIGEE FROM THE OBLIGOR; ALLOWING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO SUBSTITUTE A SUPPORT ORDER MADE IN ACCORDANCE WITH THE CHILD SUPPORT GUIDELINES FOR AN ADMINISTRATIVE DEFAULT ORDER; ALLOWING FOR AMENDMENT OF AN ADMINISTRATIVE SUPPORT ORDER; REVISING PROVISIONS FOR SERVICE OF PROCESS; PROVIDING FOR DEPARTMENT RECEIPT OF INFORMATION BY PARTIES TO A SUPPORT ORDER; DELETING THE REQUIREMENT THAT AN ALTERNATIVE ARRANGEMENT FOR CHILD SUPPORT BE SIGNED BY THE PARTIES; DELETING THE REQUIREMENT FOR A MONTHLY MEDICAID REIMBURSEMENT IF PARENTS ARE NOT ELIGIBLE FOR HEALTH INSURANCE AT REASONABLE COST; AMENDING SECTIONS 40-4-210, 40-5-201, 40-5-202, 40-5-207, 40-5-210, 40-5-224, 40-5-225, 40-5-247, 40-5-253, 40-5-273, 40-5-315, 40-5-403, 40-5-701, 40-5-806, 40-5-807, AND 40-5-901, MCA; REPEALING SECTIONS 40-5-211, 40-5-212, AND 40-5-223, MCA; PROVIDING A CONTINGENT VOIDNESS PROVISION; AND PROVIDING EFFECTIVE DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 40-4-210, MCA, is amended to read:

"40-4-210. Child support jurisdiction -- nonresident individual. ~~A court of this state that is competent to decide child support matters may exercise~~ (1) In a proceeding to establish or modify a child support order, a district court may acquire personal jurisdiction over a nonresident individual or the individual's guardian or conservator ~~in a child support determination in the initial or modification decree~~ if;

~~(1)~~(a) the individual is personally served with notice within this state in accordance with Rule 4b Montana Rules of Civil Procedure;

~~(2)~~(b) the individual submits to the jurisdiction of this state by consent, by entering a general appearance, or by filing a responsive document that has the effect of waiving any contest to personal jurisdiction;

~~(3)~~(c) the individual has resided with the child within this state;

~~(4)~~(d) the child was adopted within this state when at least one parent was a resident;

~~(5)~~(e) the individual resided in this state and provided prenatal expenses or support for the child;

~~(6)~~(f) the child resides in this state as a result of the acts or directives of the individual;

~~(7)~~(g) the individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse; or

~~(8)~~(h) there is any other basis consistent with the constitutions of this state and the United States for the exercise of the personal jurisdiction.

(2) A district court shall recognize and, if petitioned to do so, enforce according to its terms a child support order issued by a court or administrative agency of another state if the order was made consistent with the full faith and credit provisions of 28 U.S.C. 1738B.

(3) A district court may not establish a subsequent child support order that conflicts with an existing order entitled to recognition under subsection (2) or, except as provided in subsection (6), modify an existing order entitled to recognition under subsection (2).

(4) In interpreting a child support order issued in another state, including the duration of current payments and other obligations of support, a district court shall apply the law of the issuing state.

(5) In an action to enforce arrears under a child support order issued in another state, a district court shall apply the statute of limitations of this state or of the issuing state, whichever provides the longer period of limitation.

(6) A district court has jurisdiction to modify a child support order issued by a court or administrative agency of another state only after meeting the requirements of 40-5-194 and the standards for modification of interstate support orders contained in 28 U.S.C. 1738B."

Section 2. Section 40-5-201, MCA, is amended to read:

"40-5-201. Definitions. As used in this part, the following definitions apply:

(1) "Alleged father" means a person who is alleged to have engaged in sexual intercourse with a child's mother during a possible time of conception of the child or a person who is presumed to be a child's father under the provisions of 40-6-105.

(2) (a) "Child" means:

(i) ~~any~~ a person under 18 years of age who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States;

(ii) ~~any~~ a person under 19 years of age and still in high school;

(iii) ~~or any~~ a person who is mentally or physically incapacitated if the incapacity began prior to the person's 18th birthday; or

(iv) ~~and in a IV-D case, a person~~ for whom:

~~(A)~~ support rights are assigned under 53-2-613;

~~(B)~~ a public assistance payment has been made;

~~(C)~~ the department is providing support enforcement services under 40-5-203; or

~~(D)~~ the department has received a referral for interstate services from an agency of another state under the provisions of the Uniform Reciprocal Enforcement of Support Act (URESA) Interstate Family Support Act, the Revised Uniform Reciprocal Enforcement of Support Act (RURES), or the Uniform Interstate Family Reciprocal Enforcement of Support Act (UIFSA), or Title IV-D of the Social Security Act.

(b) The term may not be construed to limit the ability of the department to enforce a support order according to its terms when the order provides for support to extend beyond the child's 18th birthday.

(3) "Department" means the department of public health and human services.

(4) "Director" means the director of the department of public health and human services or the director's authorized representative.

(5) "Guidelines" means the child support guidelines adopted pursuant to 40-5-209.

(6) "Hearings officer" or "hearings examiner" means the hearings officer appointed by the department for the purposes of this chapter.

(7) "Need" means the necessary costs of food, clothing, shelter, and medical care for the support of a child or children.

(8) "Obligee" means:

(a) a person to whom a duty of support is owed and who is receiving support enforcement services under this part; or

(b) a public agency of this or another state having the right to receive current or accrued support payments.

(9) "Obligor" means a person, including an alleged father, who owes a duty of support.

(10) "Parent" means the natural or adoptive parent of a child.

(11) "Paternity blood test" means a test that demonstrates through examination of genetic markers either that an alleged father is not the natural father of a child or that there is a probability that an alleged father is the natural father of a child. The genetic markers may be identified from a person's blood or tissue sample. The blood or tissue sample may be taken by blood drawing, buccal swab, or any other method approved by the American association of blood banks. Paternity blood tests may include but are not limited to the human leukocyte antigen test and DNA probe technology.

(12) "Public assistance" means any type of monetary or other assistance for a child, including medical and foster care benefits. The term includes payments to meet the needs of a relative with whom the child is living, if assistance has been furnished with respect to the child by a state or county agency of this state or any other state.

(13) "Support debt" or "support obligation" means the amount created by:

(a) the failure to provide for the medical, health, and support needs of a child under the laws of this or any other state or under a support order; ~~or~~

(b) a support order for spousal maintenance of the custodial parent; or

(c) finances, fees, penalties, interest, and other funds and costs that the department is authorized under this chapter to collect by the use of any procedure available for the payment, enforcement, and collection of child support or spousal maintenance or support.

(14) "Support order" means an order, whether temporary or final, that:

(a) provides for the payment of a specific amount of money, expressed in periodic increments or as a lump-sum amount, for the support of the child, including an amount expressed in dollars for medical and health needs, child care, education, recreation, clothing, transportation, and other related expenses and costs specific to the needs of the child; ~~and~~

(b) is issued by:

(i) a district court of this state;

(ii) a court of appropriate jurisdiction of another state, Indian tribe, or foreign country;

(iii) an administrative agency pursuant to proceedings under this part; or

(iv) an administrative agency of another state, Indian tribe, or foreign country with a hearing function and process similar to those of the department under this part; and

(c) when the context requires, includes:

(i) judgments and orders providing periodic payments for the maintenance or support of the custodial parent of a child receiving services under this chapter; and

(ii) amounts for the recovery of fines, fees, penalties, interest, and other funds and costs that the department is authorized under this chapter to collect by the use of any procedure available for the payment, enforcement, and collection of child support or spousal maintenance or support.

(15) "IV-D" means the provisions of Title IV-D of the Social Security Act and the regulations promulgated under the act."

Section 3. Section 40-5-202, MCA, is amended to read:

"40-5-202. Department of public health and human services -- powers and duties regarding collection of support debt. (1) The department may take action under the provisions of this chapter, the abandonment or nonsupport statutes, the Uniform Parentage Act established in Title 40, chapter 6, part 1, and other appropriate state and federal statutes to provide IV-D services if the department:

(a) receives a referral on behalf of the child from an agency providing services to the child under the provisions of Title 41, Title 52, or Title 53;

(b) is providing services under 40-5-203; or

(c) receives an interstate referral, whether under the Revised Uniform Reciprocal Enforcement of Support Act, the Uniform Interstate Family Support Act, or an interstate action by a Title IV-D agency of another state.

(2) A verified statement, filed by the department, that it is providing services is prima facie evidence of its authority to act. Upon filing, the department may, on behalf of itself or on behalf of the obligee, obligor, or child, initiate, participate in, intervene in, or exercise any remedy available in a judicial or an administrative action on the same basis as any other party.

(3) Whether acting on its own behalf or on behalf of the obligee, obligor, or child, the department and its attorneys serve the public interest in ensuring that children are supported by their parents, rather

1 than maintained by public assistance. The department does not represent the interests of any individual
2 person, and its attorneys represent only the department. An attorney-client relationship is not created
3 between department attorneys and any person or entity other than the department. The obligee, obligor
4 and child may obtain the services of a private attorney to represent their interests. The existence or
5 appearance of a private attorney as counsel of record for the obligee, obligor, or child does not affect the
6 department's right to act or provide services under this chapter. This chapter does not require the
7 department to provide a private attorney for, or to pay for a private attorney for, an obligee, obligor, or
8 child.

9 (4) The department has the power of attorney to act in the name of any obligee to endorse and
10 cash any drafts, checks, money orders, or other negotiable instruments received by the department on
11 behalf of a child.

12 (5) (a) If the department is providing IV-D services, the department must be afforded notice and
13 an opportunity to participate as an independent party in any proceeding relating to paternity, to
14 termination of parental rights, or to the establishment, enforcement, or modification of a support
15 obligation, whether initiated by the obligee, the obligor, or the child.

16 (b) The notice must reasonably inform the department of the issues to be determined in the
17 proceeding, the names of the parties and the child, and the identity and location of the tribunal in which
18 the issues will be determined. The notice is for informational purposes only and is not intended as a
19 substitute for procedures necessary under the Montana Rules of Civil Procedure to establish personal
20 jurisdiction over the department. Whether or not the department is given notice, an agreement, judgment,
21 decree, or order is void as to any interest of the department that is or may be affected by the agreement,
22 judgment, decree, or order if the department was not joined as a party in the manner provided in the
23 Montana Rules of Civil Procedure.

24 (c) The notice must be personally served on the department. Within 20 days after service of the
25 notice, the department may:

26 (i) decline to enter the proceeding as a party, in which case the proceeding may continue without
27 the department's participation;

28 (ii) inform the tribunal that a substantial interest of the department could be adversely affected
29 by the proceeding, in which case the proceeding may not continue without joining the department as a
30 necessary party in the manner provided in the Montana Rules of Civil Procedure; or

(iii) inform the tribunal that prior to the filing of the proceeding, the department initiated an administrative proceeding under this chapter in which the parties and some or all of the issues are the same as those in the proceeding before the tribunal. The tribunal shall then discontinue the proceeding as to the common issues until administrative remedies have been exhausted.

(6) (a) When the department is providing services, a recipient or former recipient of public assistance who assigned support rights under 42 U.S.C. 602(a)(26) or a collection agency acting on behalf of the recipient or former recipient may collect only that part of a delinquent support amount that accrued after termination of public assistance. The recipient, former recipient, or collection agency may not commence or maintain an action against or make an agreement with the obligor to recover an assigned delinquent support amount unless the department, in writing:

(i) releases or relinquishes its assigned interest;

(ii) declares the support debt owed the department to be satisfied, in which case the balance of the delinquent amount is released; or

(iii) consents to the action or agreement.

(b) If a recipient, former recipient, or collection agency collects or receives value for any part of an assigned delinquent support amount and the department has not given its consent or released or relinquished its assigned interest, the recipient, former recipient, or collection agency shall make prompt and full restitution to the department. If prompt and full restitution is not made, the department may send a written demand to the recipient, former recipient, or collection agency, and if prompt and full restitution is not made within 20 days of the date of the written demand, the recipient, former recipient, or collection agency is liable for damages equal to double the amount collected or value received. The amount of damages may be determined and assessed by the department under the contested case provisions of the Montana Administrative Procedure Act. The damages may be collected by the department by any method or remedy available for the enforcement of child support owed by an obligor parent.

(c) This subsection (6) does not limit the right of a person to recover money not assigned. If there are competing proceedings against an obligor for collection of delinquent support, the collection of support assigned to the department takes priority over the obligor's income and assets.

(7) An applicant for or recipient of services may not act to the prejudice of the department's rights while the services are being provided.

(8) Unless the department has consented to the agreement in writing, if public assistance is being

1 or has been paid for a child, an agreement between an obligee and an obligor or a judgment, decree, or
2 order adopting the agreement does not act to reduce or terminate any rights of the department to
3 establish a support order or to recover a support debt from the obligor, even if the agreement, judgment,
4 decree, or order purports to:

5 (a) relieve or terminate the obligor's support duty;

6 (b) waive, modify, compromise, or discharge the support debt;

7 (c) prepay future support obligations or settle past, present, or future support obligations; or

8 (d) permit the obligor to pay past, present, or future support obligations:

9 (i) with noncash contributions;

10 (ii) by the payment of other debts or obligations, such as vehicle, rent, and mortgage payments;

11 or

12 (iii) by making contributions to a trust or other account or payments toward an asset if the
13 contributed amounts are unavailable to the department.

14 (9) The department may petition a court or an administrative agency for modification of any order
15 on the same basis as a party to that action is entitled to do.

16 (10) The department is subrogated to the right of the child or obligee to maintain any civil action
17 or execute any administrative remedy available under the laws of this or any other state to collect a
18 support debt. This right of subrogation is in addition to and independent of the assignment under 42
19 U.S.C. 602(a)(26) and the support debt created by 40-5-221.

20 (11) If public assistance is being or has been paid, the department is subrogated to the debt
21 created by a support order and any money judgment is considered to be in favor of the department. This
22 subrogation is an addition to any assignment made under 42 U.S.C. 602(a)(26) and applies to the lesser
23 of:

24 (a) the amount of public assistance paid; or

25 (b) the amount due under the support order.

26 (12) The department may adopt and enforce the rules necessary to carry out the provisions of this
27 part.

28 (13) While providing services under this chapter and in order to carry out the purposes mentioned
29 in this chapter, the department, through its director or the director's authorized representatives, may:

30 (a) administer oaths;

1 (b) certify official acts and records;

2 (c) issue investigative and hearing subpoenas;

3 (d) order discovery before and after a hearing;

4 (e) hold prehearing and settlement conferences;

5 (f) compel the attendance of witnesses and the production of books, accounts, documents, and
6 evidence;

7 (g) conduct proceedings supplementary to and in aid of a writ of execution or warrant for
8 distraint, including a hearing on a claim that property is exempt from execution and the examination of
9 an obligor or other person in the manner provided for the taking of a deposition in a civil action; and

10 (h) perfect service of investigative and hearing subpoenas by certified mail or in the manner
11 prescribed for service of a summons in a civil action in accordance with the Montana Rules of Civil
12 Procedure.

13 (14) In addition to any other requirement for service provided by the Montana Rules of Civil
14 Procedure, if a person is required to give notice to, serve, or provide a written response to the department
15 under this chapter, the notice, service, or response must be made to the department's child support
16 enforcement division.

17 (15) The department may collect any funds received under this chapter, and wrongfully retained,
18 by the obligor through any remedy available for collection of child support.

19 (16) A hearing under this section must initially be conducted by teleconference methods and is
20 subject to the Montana Administrative Procedure Act. At the request of a party or upon a showing that
21 a party's case is substantially prejudiced by the lack of an in-person hearing, the hearings officer shall
22 grant a de novo in-person hearing."

23
24 Section 4. Section 40-5-207, MCA, is amended to read:

25 "40-5-207. Department authorized to enforce maintenance awards. If ~~a judgment or order~~
26 ~~creating a~~ the department is providing child support obligation also contains a judgment or order for the
27 support of a spouse or former spouse who is the custodial parent of the child, the department may collect
28 and enforce spousal support under this part enforcement services, the department may also, using any
29 remedy available to it, collect and enforce any judgment or order for the maintenance or support of the
30 child's custodial parent."

Section 5. Section 40-5-210, MCA, is amended to read:

"40-5-210. **Standardized fee schedule -- rules.** (1) The department may charge an application fee to each person applying for services under 40-5-203, except that the fee may not be charged to persons who receive continuing services under 40-5-203(3). The application fee may be:

(a) a flat dollar amount; or

(b) an amount based on a sliding fee schedule that is based on the applicant's income level.

(2) If paternity is established or presumed under 40-5-234 for the alleged father, the fees for paternity blood testing may be recovered from the parent, whether the alleged father or the mother, denying paternity of the alleged father. The total amount of the paternity blood testing fee may not exceed the actual costs of the paternity blood tests. A bill for a paternity blood test is admissible in evidence without third-party foundation testimony.

(3) The department may charge a handling fee for each payment of support collected on behalf of any obligee who is not a recipient of public assistance. The department may withhold the fee from the support payment before distribution to the obligee. The department may, using any remedy available to it for adjudication and collection of child support arrearages, seek reimbursement from the obligor for a handling fee paid by the obligee. The obligee may be reimbursed the handling fee only as collection from the obligor allows and in accordance with federal law concerning distribution of support.

(4) The department may charge an obligor a late payment fee for each late payment of support collected on behalf of any obligee.

(5) The department may establish a fee schedule in order to recover costs and expenses in excess of the application, handling, and late fees. The fees must be commensurate with costs or an average of the expenditures related to specific or routine activities.

(a) The department shall develop procedures for determining whether it is appropriate for either the obligor or the obligee to be responsible for payment of the fee. In developing the procedures, the department shall consider federal regulations promulgated under Title IV-D of the Social Security Act.

(b) In an action to establish paternity or to establish or enforce a child support obligation, whether in district court or by administrative process, the department must be awarded costs in the amount established in the fee schedule as part of any judgment, decree, or order whenever the department:

(i) is a prevailing party in the action; or

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(ii) is not a party but incurs expenses and costs related to the action.

(6) The department may collect the fees awarded under this section by one of the following

means:

(a) if the fee is owed by an obligor, the fee may be:

(i) collected through any remedy available to the department for the collection of child support

arrangements; or

(ii) deducted from any payments made by the obligor before the payment is distributed to the

obligee. Credit for the payment must be reduced by the amount of the deduction for the fee. The

deduction for fees may not reduce any current support due to the obligee. The deduction for a late

payment fee may not reduce any current or past-due support due to the obligee.

(b) if the fee is owed by the obligee, the fee may be collected separately through any remedy

available to the department for the collection of child support or the department may withhold the fee

amount out of any payment collected on behalf of the obligee. The obligor must receive full credit for the

payment as if the withholding of fees did not occur.

(7) The department, upon a showing of necessity, may waive or defer any fee assessed under this section.

(8) The department may adopt rules necessary to implement fee schedules under this section.

(9) The fees and costs charged and collected under this section must be paid monthly into the state treasury to the credit of the child support enforcement division special revenue fund and must be accompanied by a detailed statement of the amounts collected.

(10) A district court may not order the department to charge or collect fees, except as authorized under this section and rules implementing this section."

Section 6. Section 40-5-224, MCA, is amended to read:

"40-5-224. Finding of support liability based upon payment of public assistance -- ~~a warrant for~~ distraint support lien -- bond to release warrant -- action to collect. (1) If the department reasonably believes that the obligor is not a resident of this state or is about to move from this state or has hidden, absconded, or left; or has removed or is about to remove, secrete, waste, or otherwise dispose of property that could be made subject to collection action to satisfy the support debt, the department may ~~issue a warrant for distraint~~ support lien pursuant to ~~40-5-247~~ 40-5-248 during the pendency of the fair

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1 ~~hearing or after the hearing, whether or not appealed~~ a collection action initiated by a notice under this
2 chapter. Further action may not be taken on the ~~warrant lien~~ until final determination ~~after fair hearing~~
3 ~~or appeal of the collection action~~. The department shall make and file in the record of the ~~fair hearing~~
4 pending collection action an affidavit stating the reasons upon which the belief is founded. The obligor
5 may furnish a bond, not to exceed the amount of the support debt, during pendency of the ~~hearing or~~
6 ~~after the hearing~~ collection action, and in that case, ~~warrants liens~~ issued must be released. If the ~~decision~~
7 ~~resulting from the hearing is~~ collection action is resolved in favor of the obligor, ~~all warrants any lien~~
8 issued under this section must be amended or released.

9 (2) The department may commence action under the provisions of this part to collect the support
10 debt on the date of issuance of the decision resulting from ~~the hearing~~ a collection action or upon the
11 obligor's failure to timely request a hearing in a pending collection action."

12
13 Section 7. Section 40-5-225, MCA, is amended to read:

14 "40-5-225. Notice of financial responsibility -- temporary and final support obligations --
15 administrative procedure. (1) In the absence of an existing support order, when the requirements of this
16 section are met, the department may enter an order requiring a child's parent or parents to pay an amount
17 each month for the support of the child. The support order must include a medical support order as
18 required by 40-5-208.

19 (2) An action to establish a support order must be commenced by serving a notice of financial
20 responsibility on the parent or parents. The notice must include a statement:

21 (a) of the names of the child, the obligee, and, if different than the obligee, the child's guardian
22 or caretaker relative;

23 (b) of the dollar amount of the support obligation to be paid each month for the child;

24 (c) that in addition to child support, the parent or parents may be ordered to provide for the
25 child's medical support needs;

26 (d) that any party may request a hearing to contest the amount of child support shown in the
27 notice or to contest the establishment of a medical support order;

28 (e) that if a party does not timely file a request for hearing, support, including medical support,
29 will be ordered as declared in the notice or in accordance with the child support guidelines adopted under
30 40-5-209;

(f) that if a party does request a hearing, the other parties may refuse to participate in the proceedings, ~~however, and that~~ the child support and medical support order will be determined using the information available to the department or provided at the hearing;

(g) that a party's refusal to participate is a consent to entry of a child support and medical support order consistent with the department's determination; and

(h) that the parties are entitled to a fair hearing under 40-5-226.

(3) If a support action is pending in district court and a temporary or permanent support obligation has not been ordered or if a paternity action is pending and there is clear and convincing evidence of paternity based on paternity blood tests or other evidence, the department may enter an order requiring a child's parent or parents to pay an amount each month for the temporary support of the child pending entry of a support order by the district court. The temporary support order must include a medical support order as required by 40-5-208.

(4) An action to establish a temporary support order must be commenced by serving a notice of temporary support obligation on the parent or parents. In addition to the statements required in subsection (2), the notice must include a statement that:

(a) a party may request a hearing to show that a temporary support obligation is inappropriate under the circumstances; and

(b) the temporary support order will terminate upon the entry of a final support order or an order of nonpaternity. If the final order is retroactive, any amount paid for a particular period under the temporary support order must be credited against the amounts due under the final order for the same period, but excess amounts may not be refunded. If an order of nonpaternity is issued or if the final support order states that periodic support obligation is not proper, the obligee shall refund to the obligor any improper amounts paid under the temporary support order, plus any costs that the ~~obligee~~ ~~obligor~~ incurs in recovering the amount to be refunded.

(5) (a) If a temporary support order is entered or if proceedings are commenced under this section for a married obligor, the department shall vacate any support order or dismiss any proceeding under this part if it finds that the parties to the marriage have:

(i) reconciled without the marriage having been dissolved;

(ii) made joint application to the department to vacate the order or dismiss the proceeding; and

(iii) provided proof that the marriage has been resumed.

(b) The department may not vacate a support order or dismiss a proceeding under this subsection (5) if it determines that the rights of a third person or the child are affected. The department may issue a new notice of temporary support obligation under this section if the parties subsequently separate.

(6) A notice of financial responsibility and the notice of temporary support obligation may be served either by certified mail or in the manner prescribed for the service of a summons in a civil action in accordance with the Montana Rules of Civil Procedure.

(7) If, prior to service of a notice under this section, the department has sufficient financial information, the department's allegation of the obligor's monthly support responsibility, whether temporary or final, must be based on the child support guidelines established under 40-5-214. If the information is unknown to the department, the allegations of the parent's or parents' monthly support responsibility must be based on the greater of:

(a) the maximum amount of public assistance that could be payable to the child under Title 53 if the child were otherwise eligible for assistance; or

(b) the child's actual need as alleged by the custodial parent, guardian, or caretaker of the child.

(8) (a) A party who objects to a notice of financial responsibility or notice of temporary support obligation may file a written request for a hearing with the department:

(i) within 20 days from the date of service of a notice of financial responsibility; and

(ii) within 10 days from the date of service of a notice of temporary support obligation.

(b) If the department receives a timely request for a hearing, it shall conduct one under 40-5-226.

(c) If the department does not receive a timely request for a hearing, it shall order the parent or parents to pay child support and to provide for the child's medical needs as stated in the notice. The child support obligation must be the amount stated in the notice or determined in accordance with the child support guidelines adopted under 40-5-209.

(9) If the department is unable to enter an obligation in accordance with the child support guidelines because of default of a party, the department may, upon notice to the parties to the original order, substitute a support order made in accordance with the guidelines for the defaulted order.

(10) After establishment of an order under this section, the department may initiate a subsequent action on the original order to establish a support obligation for another child of the same parents.

~~(9)~~ (11) A child support and medical support order under subsection (1) continues until the child attains 18 years of age or the child's graduation from high school, whichever occurs later, but not later

than the child's 19th birthday, unless the child is sooner emancipated by court order. A temporary support obligation established under subsection (3) continues until terminated as provided in subsection (5) or until the temporary order is superseded by a final order, judgment, or decree."

Section 8. Section 40-5-247, MCA, is amended to read:

"40-5-247. Warrant for distraint -- effect -- satisfaction of support lien -- redemption. (1) (a) The department may issue a warrant for distraint to execute support liens established by 40-5-248 or to enforce and collect any money obligation authorized under this chapter.

(b) The warrant must be an order, under official seal of the department, directed to a sheriff of any county of the state or to any levying officer authorized by law to enforce a district court judgment. The order must command the recipient to levy upon and sell nonexempt real and personal property to satisfy the support lien upon which the warrant is based. The warrant must include notice of:

(i) the existence of exemptions from execution;

(ii) the procedure by which an exemption may be claimed; and

(iii) the right to request a hearing to determine an exemption claim.

(c) A warrant must be signed by the director of the department or the director's designee.

(d) The warrant must be for the amount of the support lien or the amount of any other money obligation determined under this chapter, including interest and fees, if any.

(e) A warrant for distraint has the same effect as a writ of execution issued by a district court to enforce money judgments.

(2) (a) A warrant for distraint may be sent by the department to the sheriff or levying officer. Upon receipt of the warrant, the sheriff or levying officer shall proceed to execute upon the warrant in the same manner as prescribed for execution upon a judgment.

(b) A copy of the warrant must be mailed to the obligor at the obligor's last-known address at or promptly after the time of seizure.

(c) Within 10 days after the date of the mailing of the warrant to the obligor, an obligor claiming an exemption may request a hearing to determine the existence of the exemption. The department shall convene a contested case hearing to determine the claimed exemption. An order entered under this section is a final agency order, subject to judicial review under Title 2, chapter 4, part 7.

~~(b)~~(d) A sheriff or levying officer shall return a warrant, along with any funds collected, within

1 90 days of the receipt of the warrant.

2 ~~(c)~~(e) Funds resulting from execution upon the warrant must first be applied to the sheriff's or
3 levying officer's costs, any superior liens, the support lien, or other money obligation and to any inferior
4 liens. Any amounts in excess of this distribution must be paid to the obligor.

5 ~~(d)~~(f) If the warrant is returned not fully satisfied, the department has the same remedies to
6 collect the deficiency as are available for any civil judgment.

7 (3) A sheriff's or levying officer's levy against real and personal property of the obligor is not
8 limited to property in possession of persons or other entities given notice of a support lien under
9 40-5-242.

10 (4) (a) Upon receiving payment in full of the unpaid warrant amount plus penalty and fees, if any,
11 and accumulated interest, the department shall release the warrant.

12 (b) Upon receiving partial payment of the unpaid warrant amount or if the department determines
13 that a release or partial release of the warrant will facilitate the collection of the unpaid amount, penalty,
14 and interest, the department may release or may partially release the warrant for distraint. The
15 department may release the warrant if it determines that the warrant is unenforceable.

16 (5) An obligor or other person or entity having an interest in real or personal property levied upon
17 by a warrant for distraint at any time prior to sale of the property may pay the amount of the support lien
18 or other money obligation and any costs incurred by the sheriff or levying officer serving the warrant.
19 Upon payment in full, the property must be restored to the obligor or other person and all proceedings on
20 the warrant must cease.

21 (6) An obligor or other person or entity having an interest in real property levied upon and sold
22 by a sheriff or levying officer pursuant to a warrant for distraint may, within 240 days after sale of the
23 property, redeem the property by making payment to the purchaser in the amount paid by the purchaser
24 plus interest at the statutory interest rate payable on judgments recovered in the district court.

25 (7) At any time after distraint of property under a warrant for distraint, the department may
26 release all or part of the seized property without liability if payment of the support lien or other money
27 obligation is assured or if the action will facilitate collection of the support lien or other money obligation.
28 The release or return does not operate to prevent future action to collect the warrant amount from the
29 same or other property.

30 (8) The department may issue a warrant for distraint to collect a support lien or other money

obligation under this section at any time within the statutory limitation period for enforcing and collecting delinquent child support.

(9) The use of the warrant for distraint is not exclusive, and the department may use any other remedy provided by law for the collection of child support amounts."

Section 9. Section 40-5-253, MCA, is amended to read:

"40-5-253. Administrative findings and order -- administrative remedies -- judicial review. (1) It is the intent of this part that administrative findings and orders be subject to judicial review, but administrative remedies must be exhausted prior to judicial review. The administrative procedures described in this part are subject to review in the appropriate district court. Except as provided in subsections (3) through (5), the review must be conducted pursuant to the Montana Administrative Procedure Act. Upon a showing by the department that administrative remedies have not been exhausted, the district court shall refuse review until the remedies are exhausted.

(2) This part may not be construed to abridge or in any way affect the obligor's right to counsel during any and all judicial or administrative proceedings pursuant to this part.

(3) A petition for judicial review is an original action and may not be filed under a preexisting cause number or joined with any other action.

(4) A summons must be issued and served under Rule 4, Montana Rules of Civil Procedure, upon the child support enforcement division of the department and each party, along with the petition for judicial review. The division may be served through any of its employees. The district court does not obtain jurisdiction unless the petition for judicial review is served on all parties within 30 days after the petition is filed with the district court.

(5) The district court shall set a briefing schedule for a petition for judicial review. A reference in a brief to the administrative record must be to a particular part of the record, suitably designated, and to specific pages of that part of the record. Intelligible abbreviations may be used. A reference to an exhibit must be to the pages of the transcript on which the exhibit is identified, offered in evidence, and received or rejected. After briefs have been filed, and upon motion of a party, the district court may order oral argument."

Section 10. Section 40-5-273, MCA, is amended to read:

1 "40-5-273. Administrative review of child support orders -- modifying orders. (1) A review
2 application setting forth facts meeting any of the criteria for review of a child support order established
3 in 40-5-272 must be scheduled for an administrative review. Unless the department determines under
4 rules of the department that an in-person review is necessary, the review must be conducted by
5 teleconferencing methods. A notice that an administrative review will be conducted must be served either
6 personally or by certified mail on the obligor and the obligee. The notice must include the following
7 information as an exception to 2-4-601:

- 8 (a) a statement of the purpose, objectives, and possible consequences of the review;
- 9 (b) a statement of the right of the obligor and the obligee to request the department to issue
10 subpoenas compelling the appearance of witnesses and the production of documents for a hearing; and
- 11 (c) a requirement that the obligor and the obligee provide the department with telephone numbers
12 at which they and their witnesses may be contacted for the review.

13 (2) The department may issue an order commanding the obligor or the obligee, or both, to
14 produce financial information. The order must be ~~personally~~ served either personally or by certified mail
15 with the notice that a review will be conducted. The department may also issue subpoenas ordering the
16 parties to produce information in their possession about the obligor and the obligee that may be
17 reasonably necessary for application of the guidelines. Any information so obtained by the department
18 must be provided to the parties before a hearing.

19 (3) The requested modification of the order must be determined on the evidence submitted to the
20 department under the following conditions:

21 (a) If an applicant other than the department fails to provide a telephone number for the review
22 or fails to be at the number provided when telephoned for the review, the failure may be considered a
23 withdrawal of the application.

24 (b) If a party other than the applicant fails to provide a telephone number for the review or fails
25 to be at the number provided when telephoned for the review, the failure is considered to mean that the
26 party does not oppose the modification.

27 (c) If the department is the applicant and if either the obligor or the obligee, or both, fails to
28 provide a telephone number for the review or fails to be at the number provided when telephoned for the
29 review, the failure may be considered an admission that the party or parties do not oppose the
30 modification.

(4) (a) An order entered under the circumstances described in subsection (3)(a), (3)(b), or (3)(c) becomes final within 30 days of issuance unless a party provides the hearings officer an affidavit showing good cause for failure to provide a telephone number or failure to be available when telephoned.

(b) A proposed modification consent order or notice of proposed modification becomes final 30 days after issuance unless during that period a party files with the department a written request for further administrative proceedings.

(c) The department shall grant a modification hearing if it receives a timely written request by a party aggrieved by the department's determination. The hearing is subject to the provisions of this section relating to a review. The department may adopt rules regulating the fair and efficient conduct of the hearing. Unless the department determines under department rules that an in-person hearing is necessary, the hearing must be conducted by teleconferencing methods.

(5) A provision of law may not be construed to mean that an obligor or an obligee is a client of the department, and the department is not considered a party to the action.

(6) (a) In addition to the powers and duties provided by other law, the department shall, to ensure the equitable determination of a support obligation, during a review:

- (i) question witnesses in a nonadversarial manner to elicit full disclosure of all pertinent facts;
- (ii) introduce evidence on behalf of the parties;
- (iii) apply the guidelines to the facts elicited from the review; and
- (iv) inquire as to any circumstances that may require variance from the guidelines.

(b) If a party is represented by legal counsel, the department may allow the counsel to present that party's case.

(7) The department shall determine a support obligation in accordance with the guidelines and shall issue a modifying order. A stipulation by the parties in a proceeding under this section may not be contested before entry of the final department order. If the department determines that the difference between the existing support order and the amount determined under the guidelines is negligible under rules issued by the department, the modifying order may not change the amount of the support obligation. Even though the review may indicate that a modification of the support obligation is appropriate, the department may not modify the support order if the department determines, after the review, that to do so would not be in the best interests of the child under the rules issued by the department. An increase in child support is presumed to be in the best interests of the child unless, after a review, either the

obligor or the obligee demonstrates it would not be in the best interests of the child. The modifying order may modify the underlying support order from the date of service of a notice that an administrative review will be conducted under this section and may modify the underlying order from the date found to be the date that the amount required for support decreased. The obligee may be ordered to repay the obligor for any support amount overpayment found to have been paid since the date that the amount required for support decreased. If the case is a IV-D case, the department shall, on request of the obligor, enforce the obligee's repayment of the overpaid amount using any procedure provided in this chapter for payment, enforcement, and collection of child support or a delinquency.

(8) The department shall consider whether or not health insurance for the child is available and shall include an appropriate requirement for the provision of the child's health insurance needs in a modifying order in accordance with part 8 of this chapter.

(9) In addition to complying with other requirements of law, the modifying order must include the following notices and warnings provisions:

(a) ~~that the obligor shall keep the department informed of the name and address of the obligor's current employer and information on health insurance available to the obligor through the obligor's employment or other group insurance; and~~ each party, other than the department, is required to promptly file with the department and update, as necessary, information on:

(i) the identity of the party;

(ii) the party's social security number;

(iii) the party's residential and mailing addresses;

(iv) the party's telephone number;

(v) the party's driver's license number;

(vi) the name, address, and telephone number of the party's employer; and

(vii) if the child is covered by a health or medical insurance plan, the name of the insurance carrier or medical insurance plan, the policy identification number, the names of the persons covered, and any other pertinent information regarding coverage or, if the child is not covered, information as to availability of coverage for the child through the obligor's and obligee's employers;

(b) that in a subsequent child support enforcement action, upon sufficient showing that diligent effort has been made to ascertain the location of a party, the department's due process requirements for notice and service of process are met with respect to the party upon delivery of written notice by regular

1 mail to the most recent known address of the party or the party's employer's address reported to the
2 department; and

3 ~~(b)(c)~~ that the modifying order is subject to future administrative review and modification by the
4 department upon the request of the department or a party under 40-5-271 through 40-5-273 when the
5 department is providing services under IV-D.

6 (10) The department shall keep information provided under subsection (9)(a) confidential except
7 as necessary for purposes of Title IV-D of the Social Security Act.

8 ~~(10)(11)~~ An order entered under this section by the department is a final agency decision, subject
9 to judicial review pursuant to the Montana Administrative Procedure Act, except as provided in 40-5-253.
10 An order entered under this section must notify the parties that the order is subject to judicial review
11 under Title 2, chapter 4, part 7. A final order entered under a stipulation of parties waives the stipulating
12 parties' right to judicial review.

13 ~~(11)(12)~~ The parties to the support order and the department when it is providing services under
14 IV-D may enforce the support order or modify that order independently, as provided in 40-4-208 and
15 53-2-613(4)(d)."

16
17 **Section 11. Section 40-5-315, MCA, is amended to read:**

18 **"40-5-315. Immediate income deductions. (1)** Notwithstanding any provision in this part requiring
19 a delinquency as a prerequisite to an order for income deductions, except as provided in subsection (2),
20 the income of a person obligated to pay child support by an order of a district court issued after October
21 1, 1991, is subject to an immediate deduction order on the effective date of the order.

22 (2) An obligor's income is not subject to deduction under this section in any case in which the
23 district court finds:

24 (a) that there is good cause not to require immediate deduction; or

25 (b) that there is an alternative arrangement between the parties for the payment of support that
26 provides sufficient security to ensure compliance with the arrangement.

27 (3) (a) For the purposes of subsection (2), a finding of good cause not to require immediate
28 deduction must, at a minimum, be based on:

29 (i) a written determination and explanation by the district court as to why implementation of
30 immediate deductions is not in the best interests of the child; and

1 (ii) in cases involving the modification of support orders, proof of timely payment of previously
2 ordered support.

3 (b) As used in subsection (2)(b), "alternative arrangement" means a written agreement ~~that is~~
4 ~~signed by~~ between the obligor and obligee and, in cases in which there is an assignment of support rights
5 under 53-2-613, ~~signed by~~ the department of public health and human services ~~and~~ that has been
6 approved and entered into the record by the district court that issued or modified the support order.

7 (4) The clerk of court shall administer immediate income deductions under this section. The clerk
8 of court, at any time after docketing the support order or modification of a support order, at the request
9 of the obligee, and without need for amendment to the support order or for any further action by the
10 district court, shall issue the order for income deductions for service upon the obligor's payor. The
11 deduction order must direct the payor to promptly deliver the amount deducted to the department of
12 public health and human services, as provided in 40-5-909, for distribution to the obligee.

13 (5) Deductions under this section may be terminated only when:

14 (a) the obligation to pay support has terminated and all arrearages are paid in full;

15 (b) the obligor requests termination and the obligee and obligor have entered into an alternative
16 arrangement as set forth in subsection (2)(b); or

17 (c) the department of public health and human services has superseded the deduction order under
18 authority of Title 40, chapter 5, part 4.

19 (6) If a delinquency occurs subsequent to issuance of an immediate deduction order or if
20 arrearages occur prior to beginning the deductions, the arrearages may be added to the deduction order
21 only after compliance with the notice of hearing requirements of 40-5-305.

22 (7) (a) After October 1, 1991, whenever a support order is registered as provided by 40-5-184
23 or other law, the support order is subject to immediate orders to deduct income under this section.

24 (b) Withholding income under this section must be imposed when an obligor has income derived
25 from within this state and the support order was issued in another state.

26 (8) This section applies only to support orders that are not being enforced by the department of
27 public health and human services under Title IV-D of the Social Security Act. The withholding of income
28 for support orders being enforced by the department is provided for in Title 40, chapter 5, part 4, and
29 those procedures, if applicable, supersede the provisions of this section."
30

Section 12. Section 40-5-403, MCA, is amended to read:

"40-5-403. Definitions. As used in this part, the following definitions apply:

(1) "Alternative arrangement" means a written agreement ~~signed by~~ between the obligor and obligee, and ~~signed by~~ the department in the case of an assignment of rights under 53-2-613, that has been approved and entered in the record of the court or administrative authority issuing or modifying the support order.

(2) "Department" means the department of public health and human services provided for in 2-15-2201.

(3) "Employer" includes a payor.

(4) "Income" means any form of periodic payment to a person, regardless of source, including commissions, bonuses, workers' compensation, disability payments, payments under a pension or retirement program, interest, and earnings and wages. However, income does not include:

(a) any amount required by law to be withheld, other than creditor claims, including federal, state, and local taxes and social security; and

(b) any amounts exempted from judgment, execution, or attachment by federal or state law.

(5) "Obligee" means either a person to whom a duty of support is owed or a public agency of this or another state to which a person has assigned the right to receive current and accrued support payments.

(6) "Obligor" means a person who owes a duty to make payments under a support order.

(7) "Payor" means any payor of income to an obligor on a periodic basis and includes any person, firm, corporation, association, employer, trustee, political subdivision, state agency, or any agent thereof who is subject to the jurisdiction of the courts of this state under Rule 4B of the Montana Rules of Civil Procedure.

(8) "Support order" has the meaning provided in 40-5-201."

Section 13. Section 40-5-701, MCA, is amended to read:

"40-5-701. Definitions. As used in this part, the following definitions apply:

(1) (a) "Child" means:

(i) a person under 18 years of age who is not emancipated, self-supporting, married, or a member of the armed forces of the United States;

1 (ii) a person under 19 years of age who is still in high school;

2 (iii) a person who is mentally or physically incapacitated when the incapacity began prior to that
3 person reaching 18 years of age; and

4 (iv) in IV-D cases, a person for whom:

5 (A) support rights are assigned under 53-2-613;

6 (B) a public assistance payment has been made;

7 (C) the department is providing support enforcement services under 40-5-203; or

8 (D) the department has received a referral for interstate services from an agency of another state
9 under the provisions of the Uniform Interstate Family Support Act, the Revised Uniform Reciprocal
10 Enforcement of Support Act, the Uniform Reciprocal Enforcement of Support Act, or Title IV-D of the
11 Social Security Act.

12 (b) The term may not be construed to limit the ability of the department to enforce a support
13 order according to its terms when the order provides for support extending beyond the time the child
14 reaches 18 years of age.

15 (2) "Delinquency" means a support debt or support obligation due under a support order in an
16 amount greater than or equal to 6 months' support payments as of the date of service of a notice of
17 intent to suspend a license.

18 (3) "Department" means the department of public health and human services.

19 (4) "IV-D case" means a case in which the department is providing support enforcement services
20 as a result of:

21 (a) an assignment of support rights under 53-2-613;

22 (b) a payment of public assistance;

23 (c) an application for support enforcement services under 40-5-203; or

24 (d) a referral for interstate services from an agency of another state under the provisions of the
25 Uniform Reciprocal Enforcement of Support Act, the Revised Uniform Reciprocal Enforcement of Support
26 Act, the Uniform Interstate Family Support Act, or Title IV-D of the Social Security Act.

27 (5) "License" means a license, certificate, registration, permit, or any other authorization issued
28 by an agency of the state of Montana granting a person a right or privilege to engage in a business,
29 occupation, profession, recreational activity, or any other privilege that is subject to suspension,
30 revocation, forfeiture, termination, or a declaration of ineligibility to purchase by the licensing authority.

prior to its date of expiration.

(6) "Licensing authority" means any department, division, board, agency, or instrumentality of this state that issues a license.

(7) "Obligee" means:

(a) a person to whom a support debt or support obligation is owed; or

(b) a public agency of this or another state that has the right to receive current or accrued support payments or that is providing support enforcement services under this chapter.

(8) "Obligor" means a person who owes a duty of support or who is subject to a subpoena or warrant in a paternity or child support proceeding.

(9) "Order suspending a license" means an order issued by a support enforcement entity to suspend a license. The order must contain the name of the obligor, the type of license, and, if known, the social security number of the obligor.

(10) "Payment plan" includes but is not limited to a plan approved by the support enforcement entity that provides sufficient security to ensure compliance with a support order and that incorporates voluntary or involuntary income withholding under part 3 or 4 of this chapter or a similar plan for periodic payment of a support debt and, if applicable, current and future support.

(11) "Recreational activity" means an activity for which a license or permit is issued by the department of fish, wildlife, and parks under Title 87, chapter 2, part 6 or 7, except 87-2-708 or 87-2-711, or under 87-2-505, 87-2-507, 87-2-508, or 87-2-510.

(12) "Subpoena" means a writ or order issued by a district court or the department in a proceeding or as part of an investigation related to the paternity or support of a child that commands a person to appear at a particular place and time to testify or produce documents or things under the person's control.

(13) "Support debt" or "support obligation" means the amount created by the failure to provide or pay:

(a) ~~the failure to provide~~ support to a child under the laws of this or any other state or under a support order; or

(b) ~~a support order for court-ordered~~ spousal maintenance ~~if the judgment or order requiring payment of maintenance also contains a judgment or order requiring payment of child support for a child for whom the person awarded maintenance is the~~ or other court-ordered support for the child's custodial parent; or

(c) finest, fees, penalties, interest, and other funds and costs that the support enforcement entity is authorized to collect by the use of any procedure available to the entity for the payment, enforcement and collection of child support or spousal maintenance or support.

(14) "Support enforcement entity" means:

(a) in IV-D cases, the department; or

(b) in all other cases, the district court that entered the support order or a district court in which the support order is registered.

(15) (a) "Support order" means an order that provides a determinable amount for temporary or final periodic payment of a support debt or support obligation and that may include payment of a determinable or indeterminable amount for insurance covering the child issued by:

~~(a)~~ (i) a district court of this state;

~~(b)~~ (ii) a court of appropriate jurisdiction of another state, an Indian tribe, or a foreign country;

~~(c)~~ (iii) an administrative agency pursuant to proceedings under Title 40, chapter 5, part 2; or

~~(d)~~ (iv) an administrative agency of another state with a hearing function and process similar to those of the department.

(b) If an action for child support is commenced under this part and the context so requires, support order also includes:

(i) judgments and orders providing periodic payments for the maintenance or support of the child's custodial parent; and

(ii) amounts for the recovery of fines, fees, penalties, interest, and other funds and costs that the support enforcement entity is authorized to collect by the use of any procedure available to the entity for the payment, enforcement, and collection of child support or spousal maintenance or support.

(16) "Suspension" includes the withdrawal, withholding, revocation, forfeiture, or nonissuance of a license and license privileges.

(17) "Warrant" means a bench warrant, a warrant to appear, an order to show cause, or any other order issued by the district court relating to the appearance of a party in a paternity or child support proceeding."

Section 14. Section 40-5-806, MCA, is amended to read:

"40-5-806. Contents of medical support order. (1) A medical support order may specify terms

for individual insurance coverage and, to the extent of options within an available health benefit plan, the terms for plan coverage, including:

- (a) minimum required policy limits;
- (b) minimum required coverage;
- (c) maximum terms for deductibles or required copayments; and
- (d) other significant terms.

(2) If a child is already covered by individual insurance or a health benefit plan, if the child does not have existing coverage but coverage can be obtained under a health benefit plan that is available to the primary parent, or if the child does not have existing coverage and coverage for the child under a plan is available to the other parent, then the medical support order must require participation in that plan unless:

(a) the cost of continuing coverage or the cost of the health benefit plan is not reasonable or cost-beneficial; or

(b) another plan or individual insurance is available that will better serve the interests of the parties.

(3) If health benefit plans are available to both parents at a combined cost that is reasonable or cost-beneficial and with benefits that are complementary or compatible as primary and secondary coverage, the medical support order must require both parents to provide coverage for the child.

(4) If, at the time of the medical support order, coverage for the child in a health benefit plan is not available to either parent, the parent other than the primary parent must be required to obtain individual insurance coverage for the child. If the cost of individual insurance is not reasonable or cost-effective, the parent other than the primary parent must be required to obtain individual insurance or a health benefit plan at such time in the future that it becomes available to that parent at reasonable cost. The requirements in this subsection (4) to obtain a plan are not enforceable if:

(a) the primary parent has obtained individual insurance or a health benefit plan for the child and both parents have agreed in writing to share the costs of maintaining the coverage; or

(b) the other parent persuades the tribunal that the cost of available health benefit plans is not reasonable or cost-beneficial.

(5) This section also applies when a child is placed with a third-party custodian, unless a parent has obtained individual insurance or a plan for the child and both parents have agreed in writing to share

1 the costs of maintaining the coverage or a parent persuades the tribunal that the cost of available
2 individual insurance and plans is not reasonable or cost-beneficial. For purposes of this subsection, the
3 primary parent is considered to be the parent with whom the child resided for the most 24-hour periods
4 in the 12 months prior to placement with the third-party custodian.

5 (6) The medical support order must also provide that the cost of individual insurance or the health
6 benefit plan, any copayments and deductibles required under the coverage, and all medical expenses for
7 the child that are not covered by individual insurance or the plan must be shared between parents in
8 accordance with the child support guidelines. If the order fails to designate each parent's share, each
9 parent is liable for 50% of the costs and expenses.

10 ~~(7) (a) Except as provided in subsection (7)(b), if the cost of individual insurance or a health~~
11 ~~benefit plan is not reasonable or cost-beneficial or if a plan is not otherwise available and if the child is~~
12 ~~a recipient of medical assistance under Title XIX of the federal Social Security Act or later becomes a~~
13 ~~recipient of medical assistance:~~

14 ~~— (i) when the child is a recipient together with a parent, the medical support order must require~~
15 ~~the other parent to pay \$50 per month;~~

16 ~~— (ii) when the child is not a recipient with a parent, the medical support order must require each~~
17 ~~parent to pay \$50 per month; and~~

18 ~~— (iii) when the child is a recipient with both parents, neither parent has an obligation under this~~
19 ~~subsection (7)(a);~~

20 ~~— (b) The tribunal may order the parent or parents to pay a greater or lesser amount each month~~
21 ~~as the tribunal finds appropriate to the circumstances;~~

22 ~~— (c) The amounts ordered to be paid under this subsection (7) must be paid to the department for~~
23 ~~return to the appropriate state treasury fund to help offset the costs of the medical assistance program;~~

24 ~~(7)(7)~~ The costs of providing individual insurance or a health benefit plan may not be used as a
25 direct offset to the child support obligation. However, as provided by the child support guidelines, the
26 costs may be considered in making or modifying a child support order.

27 ~~(8)(8)~~ (a) Individual insurance or a health benefit plan is presumed to be available at reasonable
28 cost if:

29 (i) an amount payable for individual insurance or health benefit plan premiums does not exceed
30 25% of the obligated parent's total parental child support obligation when calculated under the child

support guidelines without credit for the medical support obligation; or

(ii) a health benefit plan is available through an employer or other group organization for which the premium is partially or entirely paid by the employer or other group organization.

(b) The presumption under subsection ~~(9)(a)~~ (8)(a) may be rebutted by clear and convincing evidence, and the tribunal has the discretion to:

(i) order individual insurance or health benefit plan coverage when the amount of the premium may be greater than the presumptive amount; or

(ii) not order coverage when the amount of the premium is less than the presumptive amount."

Section 15. Section 40-5-807, MCA, is amended to read:

"40-5-807. **Mandatory provisions of medical support order.** (1) Unless the tribunal expressly specifies otherwise, a medical support order must include terms directed toward the provisions of 40-5-806(2) through ~~(9)~~ (8), even though a provision contained in those subsections may not apply to the parent's circumstances at the time the order is entered. The terms may be established as alternatives or contingencies that provide that if circumstances later change, the health needs of the child will continue to be met under one of the subsections without need for modification of the medical support order or other action by the tribunal that issued the order or any other tribunal of competent jurisdiction.

(2) If circumstances change and a parent believes that corresponding changes in costs are not reasonable or cost-beneficial, the parent may move to petition any appropriate tribunal for relief.

(3) If a health benefit plan is provided through an employer, union, or other group, the medical support order must also include provisions necessary to entitle the order to recognition as a qualified medical child support order."

Section 16. Section 40-5-901, MCA, is amended to read:

"40-5-901. (Bracketed language terminates on occurrence of contingency or July 1, 1999)
Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

[(1) "Date of hire" means the first day that an employee starts work for which the employee is owed compensation by the payor of income.]

(2) "Department" means the department of public health and human services provided for in 2-15-2201.

1 [(3) (a) "Employee" means a person 18 years of age or older who performs labor in this state for
2 an employer in this state for compensation and for whom the employer withholds federal or state tax
3 liabilities from the employee's compensation.

4 (b) The term does not include an employee of a federal or state agency performing intelligence
5 or counterintelligence functions if the head of the agency has determined that reporting pursuant to
6 40-5-922 with respect to the employee could endanger the safety of the employee or compromise an
7 ongoing investigation or intelligence mission.]

8 (4) "Employer" means a person, firm, corporation, association, governmental entity, or labor
9 organization that engages an employee for compensation and withholds federal or state tax liabilities from
10 the employee's compensation.

11 (5) "Foreign support order" means a support order entered or last modified by a court or
12 administrative agency of another state, the District of Columbia, the Commonwealth of Puerto Rico, a
13 territory or insular possession subject to the jurisdiction of the United States, an Indian tribe, or a foreign
14 jurisdiction.

15 (6) "Income withholding" generally means procedures for directing a payor to withhold from an
16 obligor's income an amount sufficient to pay the obligor's support obligation and to defray arrears that
17 are or may become due. Specifically:

18 (a) when preceded by "IV-D", income withholding means the procedures set out in Title 40,
19 chapter 5, part 4; and

20 (b) when preceded by "non IV-D", income withholding means those cases in which an immediate
21 income-withholding order is issued under 40-5-315 after January 1, 1994.

22 (7) "Interstate case" means a case referred to the department by, or from the department to,
23 another IV-D agency.

24 [(8) "Labor organization" means a labor union, union local, union affiliate, or union hiring hall.]

25 (9) "Obligee" means the payee under a support order or a person or agency entitled to receive
26 support payments.

27 (10) "Obligor" means a person who is obligated to pay support under a support order.

28 (11) "Payor" means:

29 (a) an employer or person engaged in a trade or business in this state who engages an employee
30 for compensation; or

(b) when used in context with income withholding, means a person, firm, corporation, association, employer, trustee, political subdivision, state agency, or agent paying income to an obligor on a periodic basis.

[(12) "Rehire" means the first day, following a termination of employment, that an employee begins to again perform work or provide services for a payor. Termination of employment does not include temporary separations from employment, such as unpaid medical leave, an unpaid leave of absence, or a temporary or seasonal layoff.]

(13) "Support order" means a judgment, decree, or order, whether temporary or final, that:

(a) is for the benefit of a child or a state agency;

(b) provides for monetary support, health care, arrearages, or reimbursement;

(c) may include related costs and fees, interest, and similar other relief; and

(d) may include an order for maintenance or other support to be paid to a ~~former spouse when the former spouse is the~~ child's custodial parent ~~of a child for whom child support is awarded.~~

(14) "IV-D" or "IV-D case" means a case in which the department is providing services under the provisions of Title IV-D of the Social Security Act and the regulations promulgated under that act. A IV-D case also includes a case in which the department is collecting a support debt assigned to this or another state under Title IV-D. (Bracketed language terminates on occurrence of contingency or July 1, 1999--sec. 104, Ch. 552, L. 1997.)"

NEW SECTION. Section 17. Repealer. Sections 40-5-211, 40-5-212, and 40-5-223, MCA, are repealed.

NEW SECTION. Section 18. Contingent voidness. (1) If Constitutional Initiative No. 75, enacting Article VIII, section 17, of the Montana constitution, is declared invalid, then the amendment to 40-5-210(4) in [section 5] is effective on the date of the determination of invalidity.

(2) If LC 782 is submitted to and is not approved by the electorate, then the amendment to 40-5-210(4) in [section 5] is void.

NEW SECTION. Section 19. Effective dates. (1) Except as provided in subsections (2) and (3), [this act] is effective October 1, 1999.

1 (2) [Sections 4 and 8 through 11 and this section] are effective on passage and approval.

2 (3) The amendment to 40-5-210(4) in [section 5] is effective upon the occurrence of the

3 contingency provided for in [section 18(1)].

4 - END -

FISCAL NOTE

Bill #: HB 127

Title: Generally revise child support enforcement laws

Primary Sponsor: Royal Johnson

Status: Second reading

Sponsor Signature

Date

Dave Lewis
Dave Lewis, Budget Director

2-23-99
Date

Fiscal Summary

	<u>FY2000 Difference</u>	<u>FY2001 Difference</u>
Expenditures:		
General Fund	\$ 413,000	\$ 413,000
State Special Revenue	<u>(413,000)</u>	<u>(413,000)</u>
TOTAL	\$ 0	\$ 0
Revenue:		
State Special Revenue	\$(413,000)	\$(413,000)
Net Impact on General Fund Balance:	\$(413,000)	\$(413,000)

<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>	
	X	Significant Local Gov. Impact	X		Technical Concerns
X		Included in the Executive Budget		X	Significant Long-Term Impacts

Fiscal Analysis

ASSUMPTIONS:

1. This bill as amended removes the ability for the Department of Public Health and Human Services (Child Support Enforcement Division) to recover fees for services.
2. The loss of the recovery fee income (state special revenue) will need to be replaced with a like amount of general fund, \$413,000 each year, to maintain current level operations.

HB 127

(continued)

FISCAL IMPACT:

	<u>FY2000</u> <u>Difference</u>	<u>FY2001</u> <u>Difference</u>
<u>Funding:</u>		
General Fund (01)	\$ 413,000	\$ 413,000
State Special Revenue (02)	<u>(413,000)</u>	<u>(413,000)</u>
TOTAL	\$ 0	\$ 0
 <u>Revenue:</u>		
State Special Revenue (02)	\$(413,000)	\$(413,000)
 <u>Net Impact on General Fund Balance:</u>	 \$(413,000)	 \$(413,000)

TECHNICAL NOTES:

Loss of \$413,000 in revenues, if not replaced with general fund, would also result in the accompanying reduction of federal matching funds under Title IV-D of \$801,706 (34% state funds matched to 66% federal funds).

FISCAL NOTE

Bill #: HB 127

Title: Generally revise child support enforcement laws

Primary Sponsor: Royal Johnson

Status: Second reading as amended

Sponsor Signature

Date

Dave Lewis, Budget Director

Date

Fiscal Summary

**FY2000
Difference**

**FY2001
Difference**

Net Impact on General Fund Balance: No Fiscal Impact

<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>	
	X	Significant Local Gov. Impact	X		Technical Concerns
	X	Included in the Executive Budget		X	Significant Long-Term Impacts

Fiscal Analysis

ASSUMPTIONS:

1. This bill as amended restores the ability for the Department of Public Health and Human Services (Child Support Enforcement Division) to recover fees for child support collection and related services.

TECHNICAL NOTES:

1. This legislation allows the department to recover fees for services. The fiscal impact assumes that fees will continue to be recovered so there is no identified general fund requirement to replace lost fees.

2. Currently, HB2 instructs the department to not recover fees for enforcement and handling of cases from clients not on the state's Families Achieving Independence in Montana (FAIM) program. Loss of \$413,000 in fee revenues, if not replaced with general fund, would also result in the accompanying reduction of federal matching funds under Title IV-D of \$801,706 (34% state funds matched to 66% federal funds).

HB 127 #2

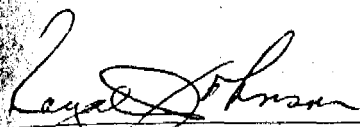
FISCAL NOTE

HB 127

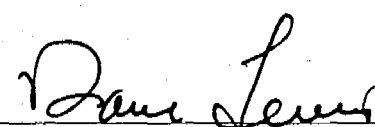
Title: Generally revise child support enforcement laws

Primary Sponsor: Royal Johnson

Status: Third reading


Sponsor Signature

Date


Dave Lewis, Budget Director

Date

3-24-99

Fiscal Summary

	<u>FY2000 Difference</u>	<u>FY2001 Difference</u>
Expenditures:		
General Fund	\$ 413,000	\$ 413,000
State Special Revenue	(413,000)	(413,000)
TOTAL	\$ 0	\$ 0
Revenue:		
State Special Revenue	\$(413,000)	\$(413,000)
Net Impact on General Fund Balance:	\$(413,000)	\$(413,000)

<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>	
	X	Significant Local Gov. Impact	X		Technical Concerns
	X	Included in the Executive Budget		X	Significant Long-Term Impacts

Fiscal Analysis

ASSUMPTIONS:

This bill as amended removes the ability for the Department of Public Health and Human Services (Child Support Enforcement Division) to recover fees for services.

The loss of the recovery fee income (state special revenue) will need to be replaced with a like amount of general fund, \$413,000 each year, to maintain current level operations.

HB 127 #3

(continued)

FISCAL IMPACT:

	<u>FY2000</u> <u>Difference</u>	<u>FY2001</u> <u>Difference</u>
<u>Funding:</u>		
General Fund (01)	\$ 413,000	\$ 413,000
State Special Revenue (02)	<u>(413,000)</u>	<u>(413,000)</u>
TOTAL	\$ 0	\$ 0
 <u>Revenue:</u>		
State Special Revenue (02)	\$(413,000)	\$(413,000)
 <u>Net Impact on General Fund Balance:</u>	 \$(413,000)	 \$(413,000)

TECHNICAL NOTES:

Loss of \$413,000 in revenues, if not replaced with general fund, would also result in the accompanying reduction of federal matching funds under Title IV-D of \$801,706 (34% state funds matched to 66% federal funds).

INDEX TO BILLS IN COMMITTEE

June 30, 1999

- Committee: (H) Judiciary -

04:00 PM

-
- HB 104** SPONSOR: Hagener, Toni SHORT TITLE: Emergency vote for surcharge for court technology
BY REQUEST OF: Supreme Court
REFERRED ON: 12/23/1998 HEARD ON: 01/12/1999
EXECUTIVE ACTION: 02/17/1999 Bill Passed as Amended -- VOTE: 15 - 5
TABLED ON: 02/02/1999
FINAL DISPOSITION 04/22/1999 (S) Died in Standing Committee
-
- HB 106** SPONSOR: McCulloch, Linda SHORT TITLE: Adopt & implement the nation crime prevention & privacy compact
BY REQUEST OF: Department Of Justice
REFERRED ON: 12/23/1998 HEARD ON: 01/13/1999
EXECUTIVE ACTION: 01/27/1999 Bill Passed as Amended -- VOTE: 14 - 5
FINAL DISPOSITION 04/06/1999 Chapter Number Assigned
-
- HB 115** SPONSOR: McGee, Dan SHORT TITLE: Increase the maximum commitment to the dept. of corrections
BY REQUEST OF: Department Of Corrections
REFERRED ON: 01/04/1999 HEARD ON: 01/12/1999
EXECUTIVE ACTION: 01/19/1999 Bill Passed as Amended -- VOTE: 17 - 2
FINAL DISPOSITION 04/29/1999 Chapter Number Assigned
-
- HB 116** SPONSOR: McGee, Dan SHORT TITLE: Revise penalties for 4th offense DUI and driving with excessive alcohol level
BY REQUEST OF: Correctional Standards And Oversight Committee
REFERRED ON: 01/04/1999 HEARD ON: 01/12/1999
EXECUTIVE ACTION: 01/15/1999 Bill Passed as Amended -- VOTE: 18 - 2
FINAL DISPOSITION 04/22/1999 Chapter Number Assigned
-
- HB 127** SPONSOR: Johnson, Royal SHORT TITLE: Generally revise child support enforcement laws to improve services
BY REQUEST OF: Department Of Public Health And Human Services
REFERRED ON: 01/04/1999 HEARD ON: 01/18/1999
EXECUTIVE ACTION: 02/18/1999 Bill Passed as Amended -- VOTE: 15 - 5
TABLED ON: 02/11/1999
FINAL DISPOSITION 05/10/1999 Chapter Number Assigned
-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN ROBERT C. CLARK, on January 18, 1999
at 8:00 A.M., in Room 312 - 1 Capitol.

ROLL CALL

Members Present:

Rep. Robert C. Clark, Chairman (R)
Rep. Dan McGee, Vice Chairman (R)
Rep. Diana Wyatt, Vice Chairman (D)
Rep. Chris Ahner (R)
Rep. Shiell Anderson (R)
Rep. Paul Clark (D)
Rep. Bill Eggers (D)
Rep. Tom Facey (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Joan Hurdle (D)
Rep. Rick Jore (R)
Rep. Sam Kitzenberg (R)
Rep. Brad Molnar (R)
Rep. Mark Noennig (R)
Rep. Jim Shockley (R)
Rep. Loren Soft (R)
Rep. Carol Williams (D)
Rep. Cindy Younkin (R)

Members Excused: Rep. Aubyn A. Curtiss (R)

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Pam Schindler, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s)	HB 47, HB 255, HB 213, HB 127, 1/18/1999
Date Posted	1/12/1999

Chris Christiaens, Rep. from Great Falls

{Tape : 1; Side : B; Approx. Time Counter : 233 - 301}

Craig Thomas, Board of Pardons & Parole

{Tape : 1; Side : B; Approx. Time Counter : 301 - 328}

Opponents:

Dave Ohlers, Montana Dept. of Corrections

{Tape : 1; Side : B; Approx. Time Counter : 328 - 381}

Informational Testimony:

Mary Craigle, Montana Dept. of Corrections

{Tape : 1; Side : B; Approx. Time Counter : 406}

Questions from Committee Members and Responses:

{Tape : 1; Side : B; Approx. Time Counter : 406 - 550}

{Tape : 2; Side : A; Approx. Time Counter : 0 - 405}

Closing by Sponsor:

Rep. McGee made closing statements.

{Tape : 2; Side : A; Approx. Time Counter : 405 - 550}

HEARING ON HB 127

Sponsor:

Rep. R. Johnson presented HB 127.

{Tape : 2; Side : B; Approx. Time Counter : 0 - 190}

Proponents:

Mary Wellbank, Montana Dept. of Public Health and Human Services,
Child Support Enforcement Division

{Tape : 2; Side : B; Approx. Time Counter : 190 - 550}

{Tape : 3; Side : A; Approx. Time Counter : 0 - 21}

EXHIBIT(6)

Kate Cholewa, Montana Women's Lobby

{Tape : 3; Side : A; Approx. Time Counter : 21 - 56}

Opponents:

None

Informational Testimony:

None

Questions from Committee Members and Responses:

{Tape : 3; Side : A; Approx. Time Counter : 56 - 105}

Chairman Clark relinquished chair to McGee

{Tape : 3; Side : A; Approx. Time Counter : 105 - 252}

EXHIBIT(7)

EXHIBIT(8)

{Tape : 3; Side : A; Approx. Time Counter : 252 - 550}

{Tape : 3; Side : B; Approx. Time Counter : 0 - 270}

Closing by Sponsor:

Rep. Johnson waived closing.

EXECUTIVE ACTION ON HB 16

Motion/Vote: Rep. Anderson moved that HB 16 be tabled. Motion carried 16-2 with Gallus and Hurdle voting no. Chairman Clark was absent at this time.

EXECUTIVE ACTION ON HB 255

Motion/Vote: Rep. Ahner moved that HB 255 be PASSED. Motion carried 17-1 with Molnar voting no. Chairman Clark was absent at this time.

EXECUTIVE ACTION ON HB 176

Motion/Vote: Rep. Younkin moved that HB 176 be PASSED. Motion carried unanimously.

Discussion on HB 42, was decided to postpone HB 42 to a later date.

EXHIBIT(9)

EXHIBIT(10)

EXHIBIT(11)

EXECUTIVE ACTION ON HB 146

Substitute Motion: Rep. Facey made a motion that HB 146 be PASSED as amended.

INDEX TO BILLS IN COMMITTEE

June 30, 1999

- Committee: (H) Appropriations -

01:01 PM

-
- HB 92** **SPONSOR:** Somerville, Roger **SHORT TITLE:** Fund natural resource damage litigation program
 BY REQUEST OF: Department Of Justice
 BY REQUEST OF: Governor
 REFERRED ON: 02/05/1999 **HEARD ON:** 02/16/1999
 EXECUTIVE ACTION: 02/18/1999 Bill Passed as Amended -- VOTE: 16 - 0
 FINAL DISPOSITION 04/29/1999 Chapter Number Assigned
-
- HB 110** **SPONSOR:** Johnson, Royal **SHORT TITLE:** Water pollution control state revolving fund -- additional bonding authority
 BY REQUEST OF: Department Of Natural Resources And Conservation
 REFERRED ON: 12/23/1998 **HEARD ON:** 01/25/1999
 EXECUTIVE ACTION: 01/26/1999 Bill Passed -- VOTE: 16 - 2
 FINAL DISPOSITION 03/17/1999 Chapter Number Assigned
-
- HB 115** **SPONSOR:** McGee, Dan **SHORT TITLE:** Increase the maximum commitment to the dept. of corrections
 BY REQUEST OF: Department Of Corrections
 REFERRED ON: 01/23/1999 **HEARD ON:** 02/02/1999
 EXECUTIVE ACTION: 02/16/1999 Bill Passed as Amended -- VOTE: 18 - 0
 FINAL DISPOSITION 04/29/1999 Chapter Number Assigned
-
- HB 124** **SPONSOR:** Haines, Dick **SHORT TITLE:** Revise fire suppression liability
 BY REQUEST OF: Department Of Natural Resources And Conservation
 REFERRED ON: 01/30/1999 **HEARD ON:** 02/05/1999
 TABLED ON: 02/09/1999
 FINAL DISPOSITION 03/26/1999 (H) Missed Deadline for Appropriation Bill Transmitt
-
- HB 127** **SPONSOR:** Johnson, Royal **SHORT TITLE:** Generally revise child support enforcement laws to improve services
 BY REQUEST OF: Department Of Public Health And Human Services
 REFERRED ON: 02/20/1999 **HEARD ON:** 03/11/1999
 EXECUTIVE ACTION: 03/15/1999 Bill Passed as Amended -- VOTE: 10 - 8
 FINAL DISPOSITION 05/10/1999 Chapter Number Assigned
-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON APPROPRIATIONS

Call to Order: By CHAIRMAN TOM ZOOK, on March 11, 1999 at 9:00 A.M., in Room 312 - 2 Capitol.

ROLL CALL

Members Present:

Rep. Tom Zook, Chairman (R)
Rep. Joe Quilici, Vice Chairman (D)
Rep. Steve Vick, Vice Chairman (R)
Rep. Beverly Barnhart (D)
Rep. Ernest Bergsagel (R)
Rep. Peggy Bergsagel (R)
Rep. Rosalie (Rosie) Buzzas (D)
Rep. John Cobb (R)
Rep. Stan Fisher (R)
Rep. Dick Haines (R)
Rep. Royal Johnson (R)
Rep. Betty Lou Kasten (R)
Rep. Matt McCann (D)
Rep. Red Menahan (D)
Rep. Ray Peck (D)
Rep. Lila Taylor (R)
Rep. Joe Tropila (D)
Rep. John Witt (R)

Members Excused: None.

Members Absent: None.

Staff Present: Joanne Gunderson, Committee Secretary
Taryn Purdy, Legislative Fiscal Division

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. The minutes were recorded on a Sony BI-85 machine, references are measured in inches rather than minutes.

Committee Business Summary:

Hearing(s) & Date Posted: HB 490, HB 608, HB 431, HB 127,
3/9/1999
Executive Action: HB 135, HB 13,

HEARING ON HB 127

Opening Statement by Sponsor:

Rep. Royal Johnson, HD 10, presented HB 127.

{Tape : 1; Side : A; Approx. Time Counter : 0 - 4; Comments :
This was a referred bill, a full hearing was not held.}

Proponents' Testimony: None.

Opponents' Testimony: None.

Informational Testimony:

Mary Ann Wellbank, Administrator, Child Support Enforcement
Division, Department of Health and Human Services (DPHHS)

{Tape : 1; Side : A; Approx. Time Counter : 4 - 282} EXHIBIT(1)
EXHIBIT(2)
EXHIBIT(3)

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 282 - Tape : 2; Side
: A; Approx. Time Counter : 171; Comments : During a portion of
this hearing, Vice Chair Vick assumed the chair.}

Closing by Sponsor:

{Tape : 2; Side : A; Approx. Time Counter : 171 - 245}

HEARING ON HB 431

Opening Statement by Sponsor:

Rep. John Mercer, HD 74, presented HB 431.

{Tape : 2; Side : A; Approx. Time Counter : 245 - 328; Comments :
This was a referred bill and did not require a full hearing.}

Proponents' Testimony: None.

Opponents' Testimony: None.

Informational Testimony:

David Gates, Chief Probation Officer, Gallatin County

{Tape : 2; Side : A; Approx. Time Counter : 328 - 341}

Sandra Oitzinger, Executive Director, Montana Juvenile Probation
Officers

{Tape : 2; Side : A; Approx. Time Counter : 341 - 375}

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON APPROPRIATIONS

Call to Order: By CHAIRMAN TOM ZOOK, on March 15, 1999 at 8:00
A.M., in Room 312 - 2 Capitol.

ROLL CALL

Members Present:

Rep. Tom Zook, Chairman (R)
Rep. Joe Quilici, Vice Chairman (D)
Rep. Steve Vick, Vice Chairman (R)
Rep. Beverly Barnhart (D)
Rep. Ernest Bergsagel (R)
Rep. Peggy Bergsagel (R)
Rep. Rosalie (Rosie) Buzzas (D)
Rep. John Cobb (R)
Rep. Stan Fisher (R)
Rep. Dick Haines (R)
Rep. Royal Johnson (R)
Rep. Betty Lou Kasten (R)
Rep. Matt McCann (D)
Rep. Red Menahan (D)
Rep. Ray Peck (D)
Rep. Lila Taylor (R)
Rep. Joe Tropila (D)
Rep. John Witt (R)

Members Excused: None.

Members Absent: None.

Staff Present: Joanne Gunderson, Committee Secretary
Taryn Purdy, Legislative Fiscal Division

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed. These minutes were
recorded on a Sony BI-85 machine and references are measured
in inches rather than minutes.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 72, HB 644, HB 645, HB 650,
HB 663 Posted 3/11/99

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 312 - Side : B;
Approx. Time Counter : 262} EXHIBIT(3)

Closing by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 262 - 296; Comments :
The Committee recessed until 10:30 AM.}

EXECUTIVE ACTION ON HB 645

Motion/Vote: REP. COBB moved that HB 645 DO PASS. Motion carried
unanimously.

{Tape : 1; Side : B; Approx. Time Counter : 296 - 341}

EXECUTIVE ACTION ON HB 127

Motion: REP. JOHNSON moved that HB 127 DO PASS.

Motion: REP. JOHNSON moved that HB 127 BE AMENDED. EXHIBIT(4)

{Tape : 1; Side : B; Approx. Time Counter : 341 - 390}

Discussion:

Tape : 1; Side : B; Approx. Time Counter : 390 - Tape : 2; Side :
A; Approx. Time Counter : 127}

Vote: Motion failed 8-10 on a Roll Call Vote. {Tape : 2; Side :
A; Approx. Time Counter : 127 - 141}

Substitute Motion: REP. JOHNSON made a substitute motion that HB
127 BE TABLED.

{Tape : 2; Side : A; Approx. Time Counter : 141 - 145}

Discussion:

{Tape : 2; Side : A; Approx. Time Counter : 145 - 160}

Vote:

The motion failed by voice vote.

{Tape : 2; Side : A; Approx. Time Counter : 160 - 166}

Discussion:

{Tape : 2; Side : A; Approx. Time Counter : 166 - 253}

Motion/Vote: REP. JOHNSON moved that AMENDMENT, (Exhibit 4), BE
RECONSIDERED. Motion carried 13-5 with Barnhart, E. Bergsagel, P.
Bergsagel, Buzzas, and Tropila voting no.

{Tape : 2; Side : A; Approx. Time Counter : 253 - 266}

Motion/Vote: REP. JOHNSON moved that HB 127 BE AMENDED (Exhibit 4). Motion carried 13-7 with Barnhart, E. Bergsagel, P. Bergsagel, Buzzas, Cobb, Tropila, and Vick voting no.
{Tape : 2; Side : A; Approx. Time Counter : 266 - 275}

Motion/Vote: REP. JOHNSON moved that HB 127 DO PASS AS AMENDED. Motion carried 10-8 with Barnhart, E. Bergsagel, P. Bergsagel, Buzzas, Cobb, Kasten, Tropila, and Vick voting no.
{Tape : 2; Side : A; Approx. Time Counter : 275 - 295}

EXECUTIVE ACTION ON HB 252

Motion/Vote: REP. JOHNSON moved that HB 252 BE TABLED. Motion carried unanimously.
{Tape : 2; Side : A; Approx. Time Counter : 295 - 301}

EXECUTIVE ACTION ON HB 613

Motion/Vote: REP. JOHNSON moved that HB 613 BE TABLED. Motion carried unanimously.
{Tape : 2; Side : A; Approx. Time Counter : 301 - 330}

EXECUTIVE ACTION ON HB 372

Motion/Vote: REP. COBB moved that HB 372 BE TABLED. Motion carried 17-1 with Cobb voting no.
{Tape : 2; Side : A; Approx. Time Counter : 330 - 360}

EXECUTIVE ACTION ON HB 562

Motion: REP. MCCANN moved that HB 562 BE TABLED.
{Tape : 2; Side : A; Approx. Time Counter : 360 - 374; Comments : Rep. McCann withdrew the motion.}

EXECUTIVE ACTION ON HB 602

Motion/Vote: REP. COBB moved that HB 602 BE TABLED. Motion carried 14-4 with Buzzas, Menahan, Quilici, and Tropila voting no.
{Tape : 2; Side : A; Approx. Time Counter : 374 - 416}

INDEX TO BILLS IN COMMITTEE

June 30, 1999

- Committee: (S) Finance and Claims -

04:41 PM

-
- HB 92** **SPONSOR:** Somerville, Roger **SHORT TITLE:** Fund natural resource damage litigation program
 BY REQUEST OF: Department Of Justice
 BY REQUEST OF: Governor
 REFERRED ON: 03/24/1999 **HEARD ON:** 04/06/1999
 EXECUTIVE ACTION: 04/09/1999 Bill Concurred -- VOTE: 18 - 0
 FINAL DISPOSITION 04/29/1999 Chapter Number Assigned
-
- HB 109** **SPONSOR:** Mercer, John **SHORT TITLE:** Allow Dept of Justice automated video gambling, accounting and reporting system
 BY REQUEST OF: Department Of Justice
 REFERRED ON: 03/30/1999 **HEARD ON:** 04/07/1999
 EXECUTIVE ACTION: 04/08/1999 Bill Concurred -- VOTE: 16 - 2
 FINAL DISPOSITION 04/23/1999 Chapter Number Assigned
-
- HB 110** **SPONSOR:** Johnson, Royal **SHORT TITLE:** Water pollution control state revolving fund -- additional bonding authority
 BY REQUEST OF: Department Of Natural Resources And Conservation
 REFERRED ON: 02/02/1999 **HEARD ON:** 03/02/1999
 EXECUTIVE ACTION: 03/05/1999 Bill Concurred -- VOTE: 17 - 1
 FINAL DISPOSITION 03/17/1999 Chapter Number Assigned
-
- HB 115** **SPONSOR:** McGee, Dan **SHORT TITLE:** Increase the maximum commitment to the dept. of corrections
 BY REQUEST OF: Department Of Corrections
 REFERRED ON: 03/25/1999 **HEARD ON:** 04/07/1999
 EXECUTIVE ACTION: 04/08/1999 Bill Concurred -- VOTE: 18 - 0
 FINAL DISPOSITION 04/29/1999 Chapter Number Assigned
-
- HB 127** **SPONSOR:** Johnson, Royal **SHORT TITLE:** Generally revise child support enforcement laws to improve services
 BY REQUEST OF: Department Of Public Health And Human Services
 REFERRED ON: 03/26/1999 **HEARD ON:** 04/06/1999
 EXECUTIVE ACTION: 04/09/1999 Bill Concurred as Amended -- VOTE: 15 - 3
 FINAL DISPOSITION 05/10/1999 Chapter Number Assigned
-

MINUTES

MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FINANCE AND CLAIMS

Call to Order: By **CHAIRMAN CHUCK SWYSGOOD**, on April 6, 1999 at 8:00 A.M., in Room 108 Capitol.

ROLL CALL

Members Present:

Sen. Chuck Swysgood, Chairman (R)
Sen. Tom Keating, Vice Chairman (R)
Sen. Tom A. Beck (R)
Sen. Chris Christiaens (D)
Sen. William Crismore (R)
Sen. Eve Franklin (D)
Sen. Greg Jergeson (D)
Sen. Bob Keenan (R)
Sen. J.D. Lynch (D)
Sen. Dale Mahlum (R)
Sen. Ken Mesaros (R)
Sen. Ken Miller (R)
Sen. Arnie Mohl (R)
Sen. Linda Nelson (D)
Sen. Debbie Shea (D)
Sen. Mike Taylor (R)
Sen. Daryl Toews (R)
Sen. Mignon Waterman (D)

Members Excused: None.

Members Absent: None.

Staff Present: Shannon Gleason, Committee Secretary
Pam Joehler, Legislative Branch
Taryn Purdy, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 252, HB 14, HB 608, HB 7,
HB 15, HB 127, HB 420, HB 92,
HB 9, 4/3/1999

SEN. WATERMAN asked if the department had a letter stating the Federal Government was requiring the funds for **Cook Chill** to be repaid. **Mr. Day** advised he had a personal conversation and possibly a preliminary letter. **Mr. Day** advised the committee he was going to contest the recall of the funds.

SEN. TAYLOR asked what the **Shelby** unit bed cost was. **Mr. Day** advised it would be \$49.00 per day. **SEN. TAYLOR** advised he meant the construction cost. **Mr. Day** stated it was \$50,000.00, the national average exactly.

CHAIRMAN SWYSGOOD stated it was the intent of the committee to not make any changes to the bill.

{Tape : 2; Side : B; Approx. Time Counter : 0}

Closing by Sponsor:

REP. JOHNSON closed.

The committee took a break until 10:30

HEARING ON HB 127

Sponsor: **REP. ROYAL JOHNSON, HD 10, BILLINGS**

Proponents: **Mary Ann Wellbank**, Department of Public Health and Human Services (DPHHS)
Bridget Case, Montana People's Action
Rebecca Dorobis, Montana People's Action
Michelle Lee

Opponents: None

Opening Statement by Sponsor:

REP. JOHNSON advised HB 127 was an omnibus bill for the **DPHHS**. **REP. JOHNSON** felt the bill was complicated and addressed several issues, including the **Dorwart** case and the \$7.00 fee for collection of child support.

Proponents' Testimony:

Mary Ann Wellbank, DPHHS, handed out **EXHIBIT(17)**, and read it for the committee. **Ms. Wellbank** also handed out amendments **EXHIBIT(18)**, **EXHIBIT(19)**, and **EXHIBIT(20)** and reviewed them for the committee. **Ms. Wellbank** advised the **DPHHS** usually has an

omnibus bill to correct and adjust policy and language as needed by the department.

Bridget Case, Montana People's Action, read **EXHIBIT(21)**, a letter from **Judy Sanderson**.

Rebecca Dorobis, Montana People's Action, read **EXHIBIT(22)**.

Michelle Lee addressed the committee specifically to request the department not be allowed to collect the \$7.00 fee. **Ms. Lee** felt it did add up and meant a lot. **Ms. Lee** stated they were for services provided by the Child Support Enforcement Division (**CSEF**) and as a tax payer she felt she already paid for the service. **Ms. Lee** noted the service is not provided by another person or department so the clients could not go elsewhere, thus they were captive customers. **Ms. Lee** added there were two law suits pending against the collection of the fees.

Questions from Committee Members and Responses:

SEN. MAHLUM asked **Ms. Lee** if all support payment went through **CSED**, **Ms. Lee** advised they don't all go through **CSED**, however she noted the District Court does not have the same enforcement authority **CSED** does. **SEN. MAHLUM** wanted to know if the child support was not paid did the state enforce the support. **Ms. Lee** advised it did. **SEN. MAHLUM** asked if the support was paid direct if the fee was charged. **Mr. Lee** stated it was not.

SEN. BECK wanted to know what the other fees were for. **Ms. Wellbank** stated if the department requests other agencies to intercept money for them the other departments charged a fee for handling. **SEN. BECK** wanted to know how much the fee was. **Ms. Wellbank** thought it was about \$8.00.

SEN. KEATING wanted to know who the obligor and the obligee were. **Ms. Wellbank** explained the obligor was the parent paying support. **Ms. Wellbank** explained the Federal requirement was the obligor had to be fully credited for the money paid, that left the obligee to pay the fees. **SEN. KEATING** asked if the fee could be added to the request of the bill. **Ms. Wellbank** advised that could happen if the obligor was current in payments. **Ms. Wellbank** explained what happened if the person was behind.

SEN. WATERMAN wanted someone to point out where in the bill the language was not authorizing the department to collect the \$7.00 fee. **Ms. Wellbank** advised page 10 line 14.

SEN. TOEWS referred to the exhibit 17 and asked about the 40,000 cases. Ms. Wellbank advised there were 40,000 cases, however not all were support cases. SEN. TOEWS asked if it was 40,000 people or multiple cases per individuals. Ms. Wellbank stated it was more than 40,000 people and involved people residing in other states.

SEN. MAHLUM wanted to know what happened if a parent does not pay. Ms. Wellbank advised case enforcement action would be taken. SEN. MAHLUM stated if DPHHS was not there people would not get paid. Ms. Wellbank agreed but said people could go to the District Court for assistance. {Tape : 2; Side : B; Approx. Time Counter : 11:00}

Closing by Sponsor:

REP. JOHNSON thought this bill needs to have the department amendments added. REP. JOHNSON agreed it was too bad the court awarded money and fee repayment as it did, however pointed out the Legislature could not override them and stated if the fees are not deducted it will cost \$2,000,0000.00 in General Fund. REP. JOHNSON felt the program works and that is why people use it.

HEARING ON HB 420

Sponsor: REP. RICK DALE, HD 39, WHITEHALL

Proponents: Frank Gilmore, Montana Tech
Russ Ritter, Montana Resources
Ray Tilman, Montana Resources
Dennis Burr, Montana Tax Payers Association
Webb Brown, Montana Chamber of Commerce
Frank Crowley, Asarco

Opponents: J.R. Richardson, Butte School District
SEN. J.D. LYNCH, SD 19, BUTTE
Amy Myhre, Montana Association of Hard
Rock Mining

Opening Statement by Sponsor:

REP. DALE explained this bill would correct what he thought was a bad tax policy regarding the inability of the mining companies to deduct the cost of transporting products to smelter. REP. DALE stated this tax was originally going to be temporary, and is

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON FINANCE AND CLAIMS

Call to Order: By **CHAIRMAN CHUCK SWYSGOOD**, on April 9, 1999 at 7:05 A.M., in Room 108 Capitol.

ROLL CALL

Members Present:

Sen. Chuck Swysgood, Chairman (R)
Sen. Tom Keating, Vice Chairman (R)
Sen. Tom A. Beck (R)
Sen. Chris Christiaens (D)
Sen. William Crismore (R)
Sen. Eve Franklin (D)
Sen. Greg Jergeson (D)
Sen. Bob Keenan (R)
Sen. J.D. Lynch (D)
Sen. Dale Mahlum (R)
Sen. Ken Mesaros (R)
Sen. Ken Miller (R)
Sen. Arnie Mohl (R)
Sen. Linda Nelson (D)
Sen. Debbie Shea (D)
Sen. Mike Taylor (R)
Sen. Daryl Toews (R)
Sen. Mignon Waterman (D)

Members Excused: None.

Members Absent: None.

Staff Present: Shannon Gleason, Committee Secretary
Clayton Schenck, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 532, HB 490, HB 621,
HB 622, and HB 72
Executive Action: HB 313, HB 79, HB 11, HB 135,
HB 127, HB 252, HB 501, HB 490, HB 13,

SEN. KEATING felt people should be responsible to live within their means.

SEN. LYNCH used Social Security as an example of people not living within their means.

Vote: Motion carried 15-3 with Keating, Taylor, and Miller voting no.

Motion/Vote: SEN. TAYLOR moved that HB 79 BE CONCURRED IN AS AMENDED. Motion failed 8-10 with Swysgood, Beck, Mesaros, Miller, Taylor, Mahlum, Keenan, and Keating, voting aye.

Motion/Vote: SEN. TAYLOR moved that HB 79 BE TABLED. Motion carried 10-8 with Beck, Swysgood, Mesaros, Miller, Taylor, Mahlum, Keenan, and Keating voting no.

{Tape : 2; Side : B; Approx. Time Counter : 0}

EXECUTIVE ACTION ON HB 11

Motion/Vote: SEN. KEATING moved that AMENDMENT HB001101.ACC BE ADOPTED. Motion carried 16-2 with Franklin and Miller voting no.

Motion/Vote: SEN. LYNCH moved that HB 11 BE CONCURRED IN AS AMENDED. Motion carried 17-1 with Miller voting no. {Tape : 2; Side : B; Approx. Time Counter : 9:50}

SEN. LYNCH was assigned to carry the bill.

EXECUTIVE ACTION ON HB 135

Motion/Vote: SEN. LYNCH moved that HB 135 BE CONCURRED IN. Motion carried unanimously.

CHAIRMAN SWYSGOOD stated he would carry the bill.

EXECUTIVE ACTION ON HB 127

Motion: SEN. LYNCH moved that AMENDMENT HB012701.ACS EXHIBIT(10) BE ADOPTED.

Discussion:

Mary Ann Wellbank, Department of Public Health and Human Services, explained the amendment was the Full Faith and Credit Act.

Vote: Motion carried unanimously.

Motion: SEN. LYNCH moved that AMENDMENT HB012701.ATP EXHIBIT(11) BE ADOPTED.

Discussion:

Ms. Wellbank advised the amendment gave the department authority to add another child of the same relationship to an existing order.

CHAIRMAN SWYSGOOD was concerned that a child could be added that did not belong on the order. **Ms. Wellbank** assured the committee that would not happen.

SEN. TOEWS felt it did not matter if the person paid more, someone should be paying.

There was several comments made about the order, who was paying, and how much.

Amy Fifer, Child Support Enforcement Division explained how the amendment would work.

SEN. WATERMAN questioned the calculations by the department. **Ms. Fifer** stated when separate orders were issued the parent could be charged a higher amount because the orders do not take each other into account. **SEN. WATERMAN** felt this was so complex that the entire system needed to be fixed.

Vote: Motion carried 11-7 with Swysgood, Crismore, Mohl, Lynch, Toews, Mahlum, and Waterman voting no.

Motion: SEN. KEATING moved that AMENDMENT HB012703.ACS EXHIBIT(12) BE ADOPTED.

Discussion:

Ms. Wellbank stated this was not the \$7.00 fee charged to parents. The amendment corrected the deletion of fees charged by other departments.

SEN. FRANKLIN wanted an example of the fee. **Ms. Wellbank** explained the department to department process, and assured the \$7.00 fee was not involved.

Motion/Vote: **SEN. LYNCH** moved that **HB 127 BE CONCURRED IN AS AMENDED**. Motion carried 15-3 with Swysgood, Miller, and Toews voting no.

EXECUTIVE ACTION ON HB 252

Motion/Vote: **SEN. KEATING** moved that **HB 252 BE TABLED**. Motion carried 13-5 with Christiaens, Waterman, Franklin, Jergeson, and Nelson voting no. {Tape : 2; Side : B; Approx. Time Counter :10:10}

EXECUTIVE ACTION ON HB 501

Motion: **SEN. TAYLOR** moved **HB 501 BE PULLED FROM THE TABLE**.

Vote: Motion carried 11-7 with Christiaens, Nelson, Toews, Shea, Lynch, Waterman, and Jergeson voting no.

Motion: **SEN. TAYLOR** moved that **AMENDMENT HB050101.ACS EXHIBIT(13) BE ADOPTED**.

Discussion:

Clayton Schenck, Legislative Fiscal Analyst, explained the amendment.

SEN. WATERMAN was concerned with the timing. **Mr. Schenck** explained agencies must provide information 22 months in advance of the elimination date. The audits must be completed six months prior to the elimination date, and a report drafted and provided to the Legislature. **SEN. WATERMAN** stated agencies would have to provide the information by 9/1/99. **SEN. WATERMAN** asked what the 10/1/2000 date was. **Mr. Schenck** explained the report would be required by 1/1/2000, and if the audit was not completed by then there would have to be legislation submitted to continue the programs.

CHAIRMAN SWYSGOOD stated if the effective date was changed it would work. **SEN. WATERMAN** felt no matter what the date was it would not work.